

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 865 Enterprise Zone Incentives to Serve the Uninsured
SPONSOR(S): Quinones
TIED BILLS: **IDEN./SIM. BILLS:** SB 2588

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Development, Trade & Banking Committee		Olmedillo	Carlson
2) Health Care General Committee			
3) Finance & Tax Committee			
4) Commerce Council			
5)			

SUMMARY ANALYSIS

The bill creates a tax exemption on the purchase and use of medical property by a health care facility or community health care center providing primary care services to the uninsured and located in an enterprise zone. The bill provides the following:

- A definition of exempt medical property.
- A limit on the property subject to refund of the first \$100,000 in the property purchased.
- Procedures and requirement for approval from the Office of Tourism, Trade and Economic Development (OTTED), and the Department of Revenue (DOR).
- Rulemaking authority for DOR.
- Assessment of penalties and interest in the event DOR determines medical property for which a refund is sought has been used outside an enterprise zone.
- Expiration date concurrent with the Florida Enterprise Zone Act.
- Requirement that one of the commissioners of an enterprise zone development agency be employed or work in the health care field.

The Revenue Estimating Conference has not estimated the fiscal impact of the bill as filed.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes – The bill creates a tax exemption for health care facilities and community health care centers providing services to the uninsured and located in an enterprise zone.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Florida Enterprise Zone Program

The Florida Enterprise Zone Act (act), codified in ss. 290.001-290.016, F.S., was created:

to provide the necessary means to assist local communities, their residents, and the private sector in creating the proper economic and social environment to induce the investment of private resources in productive business enterprises located in severely distressed areas and to provide jobs for residents of such areas.¹

The Florida Enterprise Zone Act of 1994 was scheduled to be repealed on December 31, 2005, but was re-enacted as the Florida Enterprise Zone Act (act) by ch. 2005-287, L.O.F., for an additional ten years, and is now scheduled to be repealed December 31, 2015.

Under the act, areas of the state meeting specified criteria, including suffering from pervasive poverty, unemployment, and general distress, have been designated as enterprise zones. The act established a process for the nomination and designation of a maximum of 20 enterprise zones in 1994.² Subsequently, the Legislature has designated additional zones. Currently, there are 55 enterprise zones in the state. When the Enterprise Zone Act was re-enacted by ch. 2005-287, L.O.F., the 53 existing enterprise zones were allowed to apply for re-designation; 51 of 53 have been re-designated. Four of the 55 enterprise zones were created by ch. 2005-244, L.O.F.: City of Lakeland, Indian River County, Sumter County, and Orange County. There are also three Federal Enterprise Communities and two Federal Empowerment Zones. Certain federal, state, and local incentives are authorized to induce private businesses to invest in these enterprise zones.

State Incentives

The program's incentives are as follows:

- Jobs credit against sales or corporate income taxes: In order to be eligible, businesses must increase the number of full time jobs. The credit amount varies based on job location and wage of employee.³
- Property tax credit: New, expanded, or rebuilt businesses located within an enterprise zone are allowed a credit on their Florida corporate income tax based on the amount of property taxes paid.⁴
- Sales tax refund for building materials: A refund is available for sales taxes paid on the purchase of building materials used in the rehabilitation of real property in an enterprise zone. The amount of the refund is the lesser of 97 percent of the sales taxes paid or \$5,000, or, if 20

¹ Section 290.003, F.S.

² Sections 290.0055 and 290.0065, F.S.

³ Sections 212.096 and 220.181, F.S.

⁴ Section 220.182, F.S.

percent or more of the business's employees reside in an enterprise zone, the lesser of 97 percent of the sales taxes paid or \$10,000.⁵

- Sales tax refund for business property used in an enterprise zone: A refund is available for sales taxes paid on the purchase of business property with a purchase price of \$5,000 or more purchased by and for use in a business located in an enterprise zone. The amount of the refund is the lesser of 97 percent of the sales taxes paid or \$5,000, or, if 20 percent or more of the business's employees reside in an enterprise zone, the lesser of 97 percent of the sales taxes paid or \$10,000.⁶

Local Incentives

The following are examples of local incentives:

- Sales tax exemption for electrical energy used in an enterprise zone: A sales tax exemption (state and local taxes) is available to qualified businesses located in an enterprise zone on the purchase of electrical energy. This exemption is only available if the municipality in which the business is located has passed an ordinance to exempt the municipal utility taxes on such business.⁷
- Economic development ad valorem tax exemption: Up to 100 percent of the assessed value of improvements to real or tangible property of a new or expanded business located in an enterprise zone may be exempted from property taxes if the voters of a municipality authorize the governing body of the municipality to grant such exemptions.⁸
- Occupational license tax exemption: By ordinance, the governing body of a municipality may exempt 50 percent of the occupational license tax for businesses located in an enterprise zone.⁹
- Local impact fee abatement or reduction, or low-interest or interest-free loans, or grants to businesses.¹⁰

State Agencies

The Governor's Office of Tourism, Trade, and Economic Development (OTTED) administers the Florida Enterprise Zone Act; the Department of Revenue (DOR) reviews and approves or denies a business's application for enterprise zone tax credits; and Enterprise Florida, Inc., is responsible for marketing the act.

Medical Equipment Exemption

Current law exempts medical products and supplies or medicine dispensed according to a prescription and common household remedies.¹¹ In addition, the law grants an exemption for prosthetic and orthopedic appliances.¹²

Effect of Proposed Changes:

Medical Sales and Use Tax Exemption

The bill creates a tax exemption on the purchase and use of medical property by a health care facility or community health care center providing primary care services to the uninsured and located in an enterprise zone. The bill specifies that medical property consist of medical appliances, prosthetic devices, and equipment, to include, without limitation, oxygen equipment, respiratory therapy equipment, physical and occupational therapy patient care equipment, and intermittent positive pressure breathing circuits, devices, and supplies.

⁵ Section 212.08(5)(g), F.S.

⁶ Section 212.08(5)(h), F.S.

⁷ Sections 212.08(15) and 166.231(8), F.S.

⁸ Section 196.1995, F.S.

⁹ Section 205.054, F.S.

¹⁰ Section 290.0057(1)(e), F.S.

¹¹ Section 212.08(2)(a), F.S.

¹² Id.

The bill limits the exemption of medical property to the first \$100,000 in the aggregate, for each health care facility or community health care center, and provides that the exemption inures to the benefit of the health care facility or community health care center as a refund of previously paid taxes.

The bill requires that a facility or center must first seek approval from OTTED. Specifically, the bill provides that the applicant must complete an application, under oath, that includes information such as the name and address of the facility, the identifying number assigned to the enterprise zone in which the facility is located, a specific description of the medical property for which a refund is sought, the location of the medical property, and specific proof of the purchase of the medical property.

The bill allots OTTED 10 working days from receipt of the application to review it and determine the applicant's eligibility. If the applicant meets all relevant criteria, OTTED must certify the applicant as eligible to receive the refund.

Thereafter, the certified applicant shall file a refund request with DOR, no later than 6 months after the tax is due on the medical property for which the applicant is seeking a refund. The bill requires DOR to make the refund within 30 days of its approval. The bill provides DOR rulemaking authority to implement the provisions of this bill.

The bill provides that the provisions of s. 212.095, F.S. (limiting actions, including audits and refunds during audits) do not apply to refund applications pursuant to this section.

In the event DOR determines that any of the medical property for which a refund is sought is used outside a facility or center, the applicant shall immediately return the refund amount, interest on that amount from the date of purchase, and penalties.

The bill provides that the provisions of the bill expire concurrently with the expiration of the Florida Enterprise Zone Act.

The bill requires that one of the commissioners of an enterprise zone development agency must be employed or work in the health care field, and provides for appointment only when a position becomes vacant after July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.08, F.S., to create a sales and use tax exemption, provide a cap, provide procedures, provide rulemaking authority, provide penalties for a violation, and provide an expiration date.

Section 2: Amends s. 290.0056, F.S., to provide an additional requirement for the enterprise zone development agency board of commissioners and to provide a cross reference.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has not estimated the fiscal impact of the bill as filed.

2. Expenditures:

The Revenue Estimating Conference has not estimated the fiscal impact of the bill as filed.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not estimated the fiscal impact of the bill as filed.
2. Expenditures:

The Revenue Estimating Conference has not estimated the fiscal impact of the bill as filed.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will provide an exemption to health care facilities and community health care centers serving the uninsured and located in an enterprise zone.

D. FISCAL COMMENTS:

The Revenue Estimating Conference has not estimated the fiscal impact of the bill as filed.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not reduce the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides DOR with rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Office of Tourism, Trade & Economic Development expressed the following concerns regarding this bill:

- OTTED is not in close enough proximity to the centers or facilities to review and certify applications of eligibility. OTTED recommends that the governing body or enterprise zone development agency be responsible for reviewing and certifying the applications of eligibility similar to their responsibility within seven other Enterprise Zone tax incentives.
- OTTED recommends that the proposed language requiring a new member of the EZDA board to be employed in the health care field be revised to recommend, rather than require, that a new member of the EZDA Board be employed in the health care field, similar to the other members of the EZDA Board.

The Florida Department of Revenue expressed the following concerns regarding this bill:

- The terms listed as “medical property” on page 2, lines 37 through 42, of the bill are not defined, and it is unclear how broadly these terms are intended to be applied.
- It is unclear whether the \$100,000 cap is intended to allow the exemption for each purchase of such equipment, or whether is intended to be limited to one purchase for the duration of the program.
- It is unclear how this credit is intended to relate to enterprise zone business property refund under paragraph 212.08(5)(h), F.S. It appears that some of the equipment would qualify for either of these refunds.
- Page 2, line 44, of the bill exempts purchases of the types of items listed earlier in the bill language. It does not limit the exemption to sales tax.

- This bill does not restrict the refunds amount to 97% of the tax paid up to \$5,000, like the enterprise zone building materials refunds. It is unclear if this was intentional.
- There is no time requirement that the property for which the refund is sought be used exclusively in the enterprise zone.
- There is no stated time after which a facility or center may transfer or dispose of the medical property without violation the provisions of the bill.
- The effective date does not provide DOR with sufficient time to promulgate rules.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES